

Express Mail Label No.: EK00515  
Date of Deposit: February 8, 2002

Attorney Docket No.: 02-258 (CURA-558)

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICANTS: Tchernev. *et al.*  
SERIAL NUMBER: Not yet assigned EXAMINER: Not yet assigned  
FILING DATE: January 31, 2002 ART UNIT: Not yet assigned  
FOR: PROTEINS AND NUCLEIC ACIDS ENCODING SAME

February 8, 2002  
Boston, Massachusetts

Assistant Commissioner for Patents  
Washington, D.C. 20231

FAXED

AUG 23 2002

**PETITION UNDER 37 C.F.R. § 1.10(e)**

Pursuant to 37 C.F.R. § 1.10(e), Applicants hereby petition the Commissioner to consider the enclosed patent application (and accompanying transmittal documents) as having been filed in the United States Patent and Trademark Office ("the Office") on the United States Postal Service ("USPS") deposit date. As required, this correspondence was addressed as set out in 37 C.F.R. § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office.

Applicants believe that no additional fees are due in connection with this submission. However, the Commissioner is hereby authorized to charge any deficiencies, or credit any overpayment of the same, to Deposit Account No. 50-0311 (Reference 21402-258 (Cura-558)). A duplicate copy of this petition is enclosed.

Tchernev et al.

In accordance with 37 C.F.R. § 1.10(e)(1), Applicants submit that the instant petition is being filed promptly after the Applicants became aware that the patent application (and accompanying transmittal documents) had been returned by the USPS without being delivered to the Office. The box containing the patent application (and accompanying transmittal documents) was returned to the undersigned on February 8, 2002 with a label from the USPS indicating that the package was undeliverable.

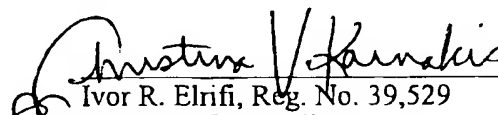
Moreover, in accordance with 37 C.F.R. § 1.10(e)(2), Applicants submit that the "Express Mail" mailing label number was included on the transmittal documents accompanying the patent application prior to the original mailing by "Express Mail."

In connection with the instant petition, Applicants also submit a copy of the originally deposited patent application (and accompanying transmittal documents) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of the original "Express Mail" label, as well as a copy of a "Track & Confirm" inquiry from the USPS website indicated that the package bearing the "Express Mail" mailing label number EK005153096US was accepted by the USPS at 7:03 PM on January 31, 2002 in BOSTON, MA 02205.

In accordance with 37 C.F.R. § 1.10(e)(4), Applicants hereby state that the copies of the patent application (and accompanying transmittal documents), the original "Express Mail" label, and the official notation entered by the USPS (the "Track & Confirm" inquiry) are true copies of the originally mailed patent application (and accompanying transmittal documents), the original "Express Mail" label, and the official notation entered by the USPS.

Based on the foregoing, Applicants hereby request that this patent application (and accompanying transmittal documents) be granted the USPS deposit date (January 31, 2002) as a filing date.

Respectfully submitted,

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